88-765

Supreme Court, U.S.
FILED
OCT 12 1988
JOSEPH F. SPANIOL, JR.
CLERK

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1988

THANH VONG HOAI,
Petitioner,

v.

THANH VAN VO, THACH DUY NGUYEN, MY-LINH D. SOLAND, NGUYEN THI BACH LUU, THANH VAN VO, SUNTECH SUNOCO, INC., and MICHAEL ARIF,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

---

APPENDIX III (Supplemental) PART C

Laurence A. Elgin *
John D. HEMENWAY
4816 Rodman St., N.W.
Washington, D.C. 20016

*Counsel of Record

CONTENTS OF THIS VOLUME OF APPENDIX III

(Supplemental) APPENDIX III

PART C

THE ORIGINAL COMPLAINT WITH WHICH THE AFFIDAVIT WAS INCORPORATED in the United States District Court for the Eastern District of Virginia, Alexandria Division.

HOAI v. VO, et al., CA 87-0294

(This is the 1st part of 4 parts) pp 155-190

II. THE ORIGINAL COMPLAINT WITH WHICH THE AFFIDAVIT WAS INCORPORATED

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
(ALEXANDRIA DIVISION)

THANH VONG HOAI, 927 N. Highland Street. Arlington, Virginia,	)
Plaintiff,	)
v.	) Civil Action No.
THANH VAN VO, 2242 Senseney Lane, Falls Church, Virginia, 22043,	)
THACH DUY NGUYEN, 6123 Greeley Boulevard, Springfield, Virginia 22152,	)
NGUYEN VAN MINH, 4102 N. River St., Arlington, Virginia 22207	)
NGUYEN THI BACH LUU, 4102 N. River St., Arlington, Virginia 22207	)
JOHN DO, address and real name presently unknown, a/k/a as one of the "Cowboys," a gang of Vietnamese "toughs" who prey upon the Vietnamese community in Arlington, Virginia,	)
RICHARD RO, address and real name presently unknown, a/k/a as one of the "Cowboys," a gang of Vietnamese "toughs" who prey upon the Vietnamese community in Arlington, Virginia,	)

NGUYEN TU LO, address and real name presently unknown, a/k/a as one of the "Cowboys," a gang of Vietnamese "toughs" who prey upon the Vietnamese community in Arlington, Virginia,

CARL KO, address and real name presently unknown, a/k/a as one of the "Cowboys," a gang of Vietnamese "toughs" who prey upon the Vietnamese community in Arlington, Virginia,

MY-LINH D. SOLAND, 5460 Fillmore Avenue, Alexandria, Virginia 22311,

MICHAEL S. ARIF, 2300 24th Road South Arlington, Virginia

SUNTECH SUNOCO, INC., 2305 Pennsylvania Avenue, S.E. Washington, D.C. 20020,

Defendants.

COMPLAINT PURSUANT TO THE ORGANIZED CRIME CONTROL ACT OF 1970 (RICO), 18 U.S.C. 1961 et seq., FOR FRAUD, MURDER THREATS AND EXTORTION IN TAKING OVER ENTERPRISES, FOR FRAUD IN THE PURCHASE AND SALE OF SECURITIES, FOR CONSPIRACY TO DAMAGE A BUSINESS OR BUSINESS REPUTATION, FOR MALICIOUS BREACH OF AND INTERFERENCE WITH A CONTRACT, FOR BREACH OF TRUST, MALPRACTICE, MALICIOUS PROSECUTION, AND FOR OTHER WRONGS AS SET OUT HEREIN, FOR INJUNCTIVE RELIEF, DAMAGES AND FOR DECLARATORY RELIEF

Plaintiff by way of complaint against the defendants alleges as follows:

JURISDICTION

__1) Jurisdiction is conferred on this Court, and this action is authorized by 18 U.S.C. 1964 and 18 U.S.C. 1965, 28 U.S.C. 1331, 28 U.S.C. 1343, 28 U.S.C. 2201, 28 U.S.C. 2202, 42 U.S.C. 1983, 1985, 1986 and 1988 and the First and Fourteenth Amendments to the United States Constitution as well as by Section 10 of the Securities and Exchange Act of 1934, (15 U.S.C. 78j), Rule 10-b (5) of the United States Securities and Exchange Commission promulgated thereunder.

VENUE

2) Venue properly reposes in this Court because all of the parties except one are residents of Virginia, and that one is the SUNTECH SUNOCO, Inc., a corporation owned and controlled by Defendant THANH VAN VO and his wife which was formed for the purpose of implementing racketeering activities and did not exist until well after the start of events leading to this

action. Most of the confrontation and threats, instances of wire and mail fraud and other actions complained of took place in Virginia and though the acts complained of affect interstate commerce and the station is in the District of Columbia, all contracts alleged, except one were negotiated and entered into in whole or in major part in Virginia.

PARTIES

PLAINTIFF

THANH VONG HOAI

3) Plaintiff THANH VONG HOAI ("HOAI") is an adult citizen of the United States who resides at 927 N. Highland St., Arlington, Virginia_and did so reside at all times pertinent hereto.

DEFENDANTS

The above plaintiff names jointly and severally the following defendants:

THANH VAN VO

4) Defendant THANH VAN VO ("VO") is an adult permanent resident of the United States who resides at 2242 Senseney Lane, Falls Church, Virginia, and did so reside at all times pertinent hereto.

THACH DUY NGUYEN

5) Defendant THACH DUY NGUYEN ("THACH") is an alien adult who resides at 6123 Greeley Boulevard, Springfield, Virginia, and did so reside at all times pertinent hereto.

MINH VAN NGUYEN

6) Defendant NGUYEN VAN MINH ("MINH") is an adult citizen of the United States who presently resides at 4102 North River Street, Arlington, Virginia, and who prior thereto and during most of the time pertinent hereto lived at Apartment 105 E, 3709 S. George Mason Drive, Falls Church, Virginia.

NGUYEN THI BACH LUU

7) Defendant NGUYEN THI BACH LUU ("LUU") is an adult permanent resident of the United States who presently resides at 4102 North River Street, Arlington, Virginia and who prior thereto and during most of the time pertinent hereto lived at Apartment 105 E, 3709 S. George Mason Drive, Falls Church, Virginia.

JOHN DO, RICHARD RO, NGUYEN TU LO AND CARL KO

__8) JOHN DO, RICHARD RO, NGUYEN TU LO, and CARL KO, address and real names presently unknown, a/k/a as the "Cowboys," are aliens, permanent residents and citizens of the United States, some of whom, plaintiff has it on information and belief, reside in Texas and others in the Arlington area who make up a gang of ethnic Vietnamese "toughs" whom the above defendants used in intimidating plaintiff and use in intimidating others in the Vietnamese community in their attempt to become "like the Italian Mafia" in the events described below.

MY-LINH SOLAND

9) Defendant MY LINH SOLAND is an adult citizen of the United States who holds herself out to practice law in the Commonwealth of Virginia, City of Alexandria, with offices at 109 South Fairfax Street in that city. At the time that she was retained by plaintiff, unbeknownst to him and without revealing the fact to him, she also on her own and through the attorney with whom she held herself out as a partner had for some time represented the defendants MINH and/or LUU and continued to do so without informing plaintiff until several months later when events revealed the double representation and agency.

MICHAEL S. ARIF

__10) Defendant MICHAEL S. ARIF is an attorney who resides at the above addresses and did so reside throughout the time during which the events complained of occurred, and who, as plaintiff alleges

below, though ostensibly only counsel to defendants went beyond representing defendants THACH and VO as counsel and participated in the acts complained of herein which were designed and intended to frighten plaintiff through extortionate acts and deception in order to deprive plaintiff of his businesses, among other things complained of herein.

SUNTECH SUNOCO, INC.

11) Defendant SUNTECH SUNOCO, INC., is a corporation which, plaintiff has it on information and belief, was incorporated by the defendant VO under the laws of the District of Columbia to take over the interest and control of the plaintiff in the business of the gas station at the above location through a pattern of racketeering activity, including fraud, murder threats and extortion, and with the proceeds of this said pattern of racketeering activity involving such acts did so take over the said interests of the

plaintiff, or control thereof, in conjunction with the defendants VO, THACH, MINH, LUU, ARIF, and SOLAND, appropriating the interests and property of plaintiff in the same, including the business or trade name conceived of by the plaintiff. Though this corporation did not exist at the start of the events leading up to this cause of action, since it was specially formed to carry out some of the racketeering activity, including fraud and extortion, complained of, it has, since its formation, engaged in a pattern of unlawful activity, including fraud, murder threats and extortion, and conspired with other defendants in the same.

COUNT I-RICO
A. GENERAL ALLEGATIONS OF A PATTERN OF RACKETEERING ACTIVITY, INCLUDING FRAUD, ROBBERY AND EXTORTION, IN VIOLATION OF 18 U.S.C. 1962(a): DEFENDANTS THACH, VO, MINH, LUU & THE "COWBOYS," THE PRINCIPAL ORGANIZED CRIMINAL ENTERPRISE

__12) Plaintiff incorporates herein by reference and repeats the allegations of paragraphs 1) through 11) above.

13) Defendants VO, THACH, MINH and LUU have received income derived directly and/or indirectly from a pattern of racketeering activity including threats of death and bodily harm in violation of 18 U.S.C. 1962.

14) Two instances of this racketeering activity, including fraud, death threats or extortion, on the part of the four above-named defendants, out of more than two from which these defendants received income, involved the plaintiff directly as set out herein and in the attached affidavit and others of which, upon information and belief, involved others to their direct damage and resulted in proceeds to these defendants which they used in acquiring interest in, or the establishment and operation of, businesses and business interests which lawfully belonged to the the plaintiff.

15) These defendants named in paragraph 13) used the income derived directly and/or indirectly from this pattern of racketeering activity, including fraud, death threats and extortion, to acquire, first, an interest in one business in interstate commerce belonging to the plaintiff, consisting of a gasoline station franchise and lease, both from the Sun Oil and Refining Company ("Sunoco"), located at 2305 Pennsylvania Avenue, S.E., Washington, D.C., by illegal and/or extortionate methods, using deceit and threats of violence, and to acquire the interest of the plaintiff in another business, the Mekong Center Food Store, a Vietnamese specialty food and gift shop located in the Mekong Center Building at 3107 Wilson Boulevard, Arlington, Virginia, which latter business affects interstate commerce inasmuch as it is located on and draws business from a major highway artery leading into and out of the

District of Columbia about 4 or 5 miles from the line between the District of Columbia and the state of Virginia and ordered its supplies and goods regularly from the District of Columbia, Maryland, Virginia and other states, all in violation of 42 U.S.C. 1962 (a) as set out more fully below and in the attached affidavit which is incorporated herein.

16) These same defendants named in 13) above acquired this business and business interest or control of the same from the plaintiff, respectively, through a pattern of racketeering activity, including fraud, death threats and extortion as set out more fully below in violation of 18 U.S.C. 1962 (b).

17) Having so acquired the said business interests and/or control of the same from the defendant by a pattern of racketeering activity involving unlawful acts and having used the proceeds from a pattern of racketeering activity in doing so, the

named defendants VO, THACH, MINH, LUU, and SUNTECH SUNOCO, INC., conducted the affairs of these enterprises through a pattern of racketeering activity involving such unlawful acts as set out more fully below and in the attached affidavit which is incorporated herein.

18) They were aided, abetted, and/or counselled in the same by the defendants ARIF and SOLAND each of whom by overt acts described in the accompanying attached affidavit, participated in the pattern of racketeering activity complained of on more than one occasion as set out in the accompanying affidavit.

19) They were aided and abetted in this enterprise, and in acquisition of the business interests of the plaintiff and in the acquisition and takeover and exclusion of plaintiff from, plaintiff's business, by the defendant COWBOYS, who acted as the "street muscle" of the other plaintiffs.

20) In addition the said four defendants operated a de facto organization or enterprise which, in their own words, aspired and aspires to be like the Italian and Italian-American mafia, or "strong," as they like to term it, as an organized criminal entity and which conducted its enterprises through a pattern of racketeering activity involving fraud, death threats and extortion in violation of 18 U.S.C. 1962 (c) as set out more fully below and though, at times the defendant THACH, as set out below, used a pattern of racketeering activity involving such unlawful acts to deceive and harm his co-defendants MINH and LUU, he did so in his aspirations to be the boss of all bosses of this incipient organized crime entity, and show who was the "capo" or head of the organization in order to get the others in his power and bend them to his will to do his bidding.

21) The defendants conspired, in violation of 18 U.S.C. 1962 (d) to violate the provisions of one or more of the subsections (a), (b) and (c) of 18 U.S.C. 1962 as set out herein.

22) The anonymous defendants DO, RO, LO and KO, the Vietnamese "street muscle" gang, many of whose members live in, and many of whose activities are centered in Arlington, Virginia, also known as the "Cowboys," were employed by and associated with the aspiring organized criminal enterprise of the defendants set out above as its "street muscle", since they aspired to have their association, as they informed the plaintiff, become a Vietnamese version of the Mafia, the activities of which affected interstate commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity involving fraud, death threats or extortion the

business enterprises and interests of the plaintiff aforesaid, all in violation of 18 U.S.C. 1962 (c).

(b) DEFENDANT SOLAND

23) The defendants MINH and LUU did commit a further violation of the aforesaid section of the laws to further the illegal purposes of the group in that they did conspire further in this regard to deprive the plaintiff of counsel and prevent him, therefore, from petitioning for the redress of his grievances in furtherance of their racketeering efforts as set out herein by continuing to retain and use the services of the plaintiff's then attorney, from May 28, 1986, when that attorney, defendant MY LINH SOLAND ("Soland"), was first retained by plaintiff, until August 18, even while they were conspiring and concerting together with the other defendants as set out herein and acting in the pattern of racketeering activity set out herein to

deprive plaintiff of his effective capital and businesses.

24) At the time that the defendant SOLAND did undertake to represent plaintiff in June of 1986 she did not reveal to plaintiff that she was representing the defendants MINH and LUU, who were part of the enterprise engaged in the pattern of racketeering activity involving unlawful acts that harmed the plaintiff with regard to both of his business interests referred to.

25) The defendant SOLAND did concert and conspire together with the aforesaid defendants MINH, LUU, VO, THACH, ARIF, SUNTECH SUNOCO, INC., and the COWBOYS to injure the plaintiff by assisting the defendants in their extortion and racketeering activities against the plaintiff as their agent when in fact she was holding herself out to the plaintiff as his attorney, and that she did so in breach of trust and/or fiduciary duty, by

undisclosed double agency, and by deceit as to her status as an attorney admitted to practice in other jurisdictions, all in violation of law and in violation of the ethics of her profession concerning conflict of interest and duty to clients by which she is legally bound, and

26) All of the defendants named herein did conspire together, each with the other, in different combinations at different times, as set out more fully below, in violation of these subsections (a),(b) and (c) of 18 U.S.C. 1962, which conspiracies violated 18 U.S.C. 1962 (d).

(c) SPECIFIC RACKETEERING ACTIVITY

27) The defendants VO, THACH, MINH, LUU, ARIF, SUNTECH SUNOCO, INC., and THE COWBOYS committed a number of acts of wire fraud using the telephone and threatened to extort and did extort the plaintiff of his two business interests, and did interfere with commerce to plaintiff's harm and these acts constituted

racketeering activity as defined in 18 U.S.C. 1961 and also made extortionate extensions of credit to and/or collected and/or attempted to collect by extortionate means extension of credit to the plaintiff and to punish him for the nonrepayment of credit in violation of 18 U.S.C. 892 and/or 894 as incorporated by reference in 18 U.S.C. 1961, and similarly engaged in interference with commerce, robbery and/or extortion in violation of 18 U.S.C. 1951 as incorporated also in Section 1961. They also defrauded plaintiff and committed fraud upon him using mail fraud as instrumental in such fraud or as incidental thereto in violation of 18 U.S.C. 1341 and/or telephone transmission in violation of 18 U.S.C. 1343.

28) The anonymous defendants DO, RO, LO and KO ("cowboys") engaged in these same activities as they were employed by the aforesaid defendants, either or some of

them, or as associates of the aforesaid defendants in violation of 18 U.S.C. 1962 as aforesaid and within the definitions of 18 U.S.C. 1961 aforesaid and 18 U.S.C. 2.

29) The defendant SOLAND was employed by, and associated with, the defendants MINH and LUU and, upon information and belief, THACH in certain of these activities as set out above and more specifically below in violation of 18 U.S.C. 1962 as aforesaid and within the definitions of 18 U.S.C. 1961 aforesaid and 18 U.S.C. 2. The defendant ARIF was employed by, and associated with, the defendants THACH and VO in violation of the same.

30) All these defendants did do these things as set out more specifically below, to wit:

31) The defendants, and each of them, at varying times and in various ways, as set out more fully below and in the attached affidavit which is incorporated herein by

reference, did conspire and concert and act to take from the plaintiff by extortion consisting of fraud, deception and threats of violence, sometimes using the telephone and/or mails and/or other methods of interstate communication and by interstate travel by motor vehicle, the two businesses of the plaintiff aforesaid, one of which is in interstate commerce in the District of Columbia and the other of which, in Arlington, Virginia, near the District of Columbia, affects interstate commerce, as follows:

COUNT II-RICO, FRAUD: FACTS SUPPORTING AND ESTABLISHING SAME

(a) Relevant Business History and Background of Plaintiff

32) Plaintiff repeats and incorporates herein by reference the allegations of paragraphs 1) through 31) above.

33) Plaintiff is a man experienced in the gas station, auto repair, and related businesses, having worked in gas stations, body shops and car washes, sometimes in two or more of such facilities simultaneously from 1975 until the time, late in 1985 and early in 1986, when the events out of which this complaint arises began.

34) Plaintiff began as a gas station attendant and has been since then a dealer and owner-operator of such facilities and a supervisor of a number of stations for Sun Oil and Refining Company, ("Sunoco").

35) Plaintiff's prior operations were relatively small stations and facilities

and some were profitable, some were "break-even" propositions allowing adequate salaries and expenses, and some, after showing some profitability and/or promise, became non-profitable and, as a business decision, were shut down.

36) Though some of these ventures were capitalized by plaintiff on his own, most were funded with capital from plaintiff's wife's mother. Plaintiff's wife and her mother are of ethnic Vietnamese-Chinese, or "Overseas Chinese" extraction, as it sometimes called and are from an extended family whose merchant skills and access to capital are well known in the Vietnamese and allied oriental-American communities. The manner in which plaintiff, his wife, her mother, and their related extended family work together to take advantage of business opportunities, with his wife's family supplying capital, were known to the defendants herein, with the possible

exception of defendant ARIF, who is not of far eastern extraction.

(b) The Sunoco Station at 2305 Pennsylvania Ave., S.E., Wash., D.C.

37) In February of 1986 plaintiff, while looking for new business opportunities, observed that the Sunoco station at 2305 Pennsylvania Avenue, S.E., in Washington, D.C., had a "For Lease" sign on it with a telephone number to call.

38) This station site of Sunoco was known to plaintiff. Earlier, in 1980, he had negotiated with the Sunoco dealer then running it and had agreed to purchase it for one hundred and thirty-nine thousand dollars ($139,000.). Both plaintiff and Sunoco knew that the station was capable of realizing a much greater return under his management. Plaintiff was encouraged by Sunoco not to buy the dealership at that time but rather to wait in the hopes that the station would come available

without a purchase from a dealer who was its current operator or another site with equal potential could be found.

39) The station is located on a major highway artery, and was known by both plaintiff and Sunoco to be capable of being raised in its monthly gallonage, under plaintiff's management, from eighty-five thousand (85,000.) gallons to over one hundred thousand ($100,000.) gallons per month and from there, with the addition of a "C-Store," as Sunoco's in-house convenience stores and mini-marts are called, to be raised to a gallonage of one hundred and forty thousand (140,000.) gallons and then ultimately one hundred and seventy-five thousand (175,000.) gallons per month, based on the measurable traffic flow at the location.

40) The station has three service bays for mechanical work.

41) It is a location with extremely high

profit potential, capable of being raised to gross annual dollar volume within two years, under proper management, of close to three million dollars ($3,000,000.) per annum.

42) Plaintiff entered negotiations with Sunoco, with personnel in that company whom he knew who knew him and his capabilities from past work and dealings, to aquire the lease and franchise for the station.

43) After thorough internal review and examination of his qualifications, plaintiff was selected by Sunoco, from a large field of applicants, to be the lessee and franchisee (formerly dealer) for the station.

44) As a result of plaintiff's negotiations leading to the granting of the said lease and franchise by Sunoco to plaintiff, plaintiff became the victim of a pattern of fraud, making extensive use

of the telephone, by the defendants and which culminated in extortion of the said gas station lease and franchise from the plaintiff by the defendants, which was perpetrated in essence as follows:

45) Plaintiff was informed by Sunoco of the capital he needed to commence operation of the lease and frachise, seventy thousand dollars ($70,000.).

46) Plaintiff had access, through his wife's family, to half of this needed capital, and expected to borrow the other half, or thirty-five thousand dollars. ($35,000.)

(c) The Involvement of Defendant Vo

47) The defendant VO, as plaintiff was winding down the prior business which he and his mother-in-law had ventured into, falsely and fraudulently deceived plaintiff that he, VO, was a wealthy construction company owner who had one hundred thousand dollars ($100,000.) on

hand at all times from the cash flow of his construction business that he would be happy to lend to his friend the plaintiff to get plaintiff started in his next business venture.

48) This was a fraud and a deceit, carried out largely over the telephone and designed to induce plaintiff to rely upon VO as a source of a loan for a new business venture and plaintiff did so rely to his harm and detriment.

49) In reality the defendant VO had no such large construction company and no money to lend such as he stated he did. This deceit was designed by VO and THACH, ARIF, MINH and LUU to ascertain the amount of additional capital outside his wife's family that plaintiff needed and to tie up the capital available to plaintiff and gain control of its benefits by fraud and extortion while simultaneously weakening plaintiff's ability to resist the planned

defrauding and extortion of his gas station lease and franchise from him by depriving him of capital and control of his gas station business.

50) The defendant VO insinuated his way into the trust and confidence of plaintiff by various frauds and deceits designed to further make plaintiff vulnerable to and dependent upon the defendants, such as making plaintiff a small personal loan to tide him over between businesses which was represented to be a friendship loan which would not be demanded until plaintiff was esablished in a new business, claiming to relieve plaintiff of the burden of opening a station bank account in order to seize control of the station's bank account and its daily proceeds, and the like.

51) Other such frauds and deceits used for this purpose upon the plaintiff, largely using the telephone, and having the desired effect of causing plaintiff to

rely upon them to his harm and detriment so that defendants might seize his gas station business, included representing that defendants THACH and VO would relieve plaintiff of the burden of finding experienced mechanics and that they would find them, and that defendant VO was merely going to copy plaintiff's signed original of the lease and franchise agreement between plaintiff and Sunoco when in fact VO surreptitiously switched the two and robbed the signed original from the plaintiff.

52) This last constituted a robbery under the definition of 18 U.S.C. 1961 (1) (A) and hence a racketeering activity.

53) However, the major frauds and deceits practiced upon plaintiff, using the telephone substantially, in order to "set him up" for the extortion from him of the gas station business, were these:

53) That defendant THACH was <u>the</u>

president of and owner of the McLean Bank when in fact he was no such thing. This fraud and deceit was designed to make plaintiff reluctant to criticize or strenously attempt to stop the fraudulent activities of the other defendants for fear of offending someone whose access to capital and ability to affect his credit was vital to his business and livelihood, and to make credible the various fraudulent representations of all the defendants concerning financing and potential financing as set out in the attached affidavit. Plaintiff relied upon this misrepresentation, as defendants intended him to do, to his harm and detriment.

54) That defendant VO had established an amount of, first, forty-five thousand dollars ($45,000.) and then one hundred thousand dollars ($100,000.) in an account in the McLean Bank (The bank fraudulently

claimed to be owned by and headed by defendant THACH) in the name of the gas station business, first on behalf of plaintiff as a favor, then on behalf of VO who claimed to want to control the account in order to protect his fraudulently claimed "loan" which he misrepresented he was making to plaintiff. In fact no such "loan" was ever made. The entire claimed "loan" was a "Ponzi scheme," in which the defendants VO and THACH established a bank account in the name of the gas station, prevented plaintiff by fraud, deceit, robbery (of the bank documents and the daily proceeds of the station) and extortion placed the daily receipts of the station, which VO seized control of by fraud, deceit and robbery, and then placed the same in the station account and thereby claimed credit for a "loan" which they never made. This was designed to induce plaintiff to rely upon it as a

false representation and he did to his harm and detriment.

55) The defendant VO claimed to be making a loan to plaintiff of the needed thirty-five thousand dollars in capital on a friendly basis where there would be no payback for a year of either principal or interest and then, interest would be paid if necessary to prolong the loan beyond a year at ten percent (10%). Defendant VO never had any present intention of making such a friendly helpful loan but only desired to induce plaintiff to rely upon the false representation that he was willing to make such a loan in order to defraud and deceive and then extort the plaintiff and plaintiff relied upon this misrepresentation to his harm and detriment. The arranging of this fraudulent loan to plaintiff was accomplished in large part through the use of the telephone.

56) Defendant VO claimed to have a large construction business of eighty (80) employees which occupied most of his time and to not be interested in owning any part of gas station lease and franchise being applied for by plaintiff. In fact defendant VO had no such business and had no present intention when he made such fraudulent promises of doing anything other than seizing control of plaintiff's gas station business by fraud and extortion. Plaintiff relied upon VO's representations to the contrary, which were deceitful, to his harm and detriment.

57) While the defendant VO, with the aid of the defendants THACH and ARIF, (whose participation was at first not known to plaintiff,) was engaged in this fraud and deceit in conspiracy with the defendant VO, the defendants MINH and LUU, who later joined in the fraud to deprive plaintiff of the gas station directly, were

participating in the fraud and extortion of the gas station by a series of frauds involving extensive use of the telephone which culminated as planned in the fraud and extortion from the plaintiff of his other business, the aforesaid oriental food store business and the robbery from him of the stock of that business.

58) The details of the various misrepresentations making up the total pattern of wire fraud in this fraud over the food store business are set out in the accompanying affidavit. The main fraud was that the defendants MINH and LUU, unbeknownst to the plaintiff, with the cooperation of VO and THACH, induced plaintiff and plaintiff's wife, to "purchase" the food store business with fraudulent and deceitful promises, promises which defendants MINH and LUU never had any present intent of fulfilling. The whole intent of this

fraudulently induced "sale" of the food store business was to induce plaintiff to tie up his available capital, whose amount was known to these defendants, in inventory for the food store by inducing him to take over its operation, together with his wife, in such manner that he would have no choice, in order to continue the business, but to sink that capital into food inventory which the defendants then intended to defraud, rob and extort from him, which they did. Plaintiff relied upon the misrepresentations designed to induce him to enter this fraudulent purchase scheme and did so to his harm and detriment.